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ABSTRACT

This kit discusses written policies basic to student rights and responsibilities, including those based on the constitution and those not. Specific policies should be based on three broad, basic premises: (1) recognition that freedom implies the right to make mistakes as long as these mistakes do not endanger life and property or are not seriously disruptive, (2) recognition that students should have the right to live under "rule by law" rather than "rule by personality," and (3) recognition that deviation from opinions and standards deemed desirable by the faculty is not necessarily a danger to the educational process. Source materials in the kit include (1) representative board policies, rules, and information statements on student rights and responsibilities; (2) Evanston, Illinois, school district's policy on student expression; (3) due process procedures to be followed in the exercise of disciplinary authority; and (4) a guide to further reading. (Author/JF)

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Policies That Clarify Student Rights & Responsibilities

Cat. no. 70-50

October, 1970

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
OFFICE OF EDUCATION

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EA 003 272

...a school board policy development kit prepared by the Educational Policies Service of the National School Boards Association

ABOUT:

the School Board Policy Development Kits...

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Policies That Clarify Student Rights & Responsibilities

Cat. No. 70-50 *October, 1970*

"It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."--U.S. Supreme Court in Tinker v. Des Moines.

Dear Colleague:

The U.S. Supreme Court in the landmark Gault (1967) and Tinker (1969) decisions has ruled that age is no barrier to the enjoyment and protection of the Constitution, most particularly the Bill of Rights. The Court has reminded us, says August Gold, a civil libertarian with long experience in teaching and educational administration, that:

> Civil liberties are guaranteed by the Constitution variously to "citizens of the United States," to "person," and to "the people." Nowhere does there appear any age limitation on the application of these liberties. In fact, the 14th Amendment defines citizens as "all persons born or naturalized in the United States, and subject to the jurisdiction thereof." [Emphasis added.]
>
> Secondary school students are obviously included in the category of "persons" or "people," and, if they satisfy the constitutional requirements they may also be "citizens." Since the liberties vouchsafed to these categories are not conditional upon attainment of a particular age or completion of a level of schooling, students must enjoy equal protection with older people as citizens.

To some school officials, the Court's position has seemed a case of "easy to enunciate, hard to adhere to." Problem after problem arises

that seems to defy solution without some abridgement of student rights.

What about students who publish shocking and offensive views in the school newspapers?

What about dress codes and hair styles?

What about arm bands, and buttons, and peace signs--and the raised, clenched fist as substitute for a respectful flag salute?

Citing the principle of in loco parentis, some school officials maintain that students are posing problems that must be dealt with swiftly and summarily, sometimes to the detriment of their Constitutional rights. Such students are in a special category of society exempt from constitutional protection, goes this argument; freedom of speech, due process, and the rest of the constitutional guarantees are seen as being subordinate to the school's implied responsibility to act in the role of parent.

As student unrest and activism increases, so increases the resistance among many adults to the idea of granting students further freedom. How does the school board--caught between these two forces --approach the task of developing policies in the area of student rights and responsibilities? Even accepting as a "given" that the Bill of Rights (and subsequent interpretation of the Bill of Rights) must serve as pre-emptive policy for every school system in the nation, how does the individual board establish its own criteria for "law and order" among students?

The History of 'In loco parentis'

A good starting point is to consider the principle of in loco parentis. Where did it come from? What does it entail? How far does it extend?

Attorney Allen D. Schwartz of Chicago, an authority on school law and a member of the EPS/NSBA Advisory Board, offers this summary:

> For more than 100 years, in loco parentis was invoked as the authority for school rules governing student appearance. The doctrine originated in Hammurabi's Code, appeared in Roman law, and was imported to America as part of the common law.
>
> But in loco parentis was never intended as a device to govern the child's conduct in areas where the parents could disagree with the school or which were outside the educational province. Even Blackstone limited the application of the doctrine to "restraint and correction." And the concept can survive today only in discipline cases.

What Schwartz is saying is that recent Court rulings have not redefined or curtailed in loco parentis, but that the principle had only limited application, in very narrow and specific terms, to begin with.

Another interesting argument in favor of abandoning in loco parentis as a thumb rule substitute for the Bill of Rights comes from Scott D. Thomson, Superintendent for Evanston Township High School District 202: "I've had parents come in to defend their youngster's underground newspapers that were rife with the most blatant obscenities imaginable. 'Well,' they say, 'if this is what the kids want to do, then let them do it.' As school administrators, we just can't accept this view."

In terms of setting limits to student rights, then, in loco parentis no longer provides satisfactory authority--if, indeed, it ever did.

Schools Without Rules?

If the school board has no a priori right to impose arbitrary restrictions on student behavior, neither has it the right to cease making rules and regulations altogether. It might be simpler if it did--but chaos and anarchy would result, of course. Administrative rules, promulgated under board policies, are necessary to enable the schools to fulfill the educational responsibilities that are theirs as well as to protect students' health, safety, and well-being.

In addition, state and federal laws are binding upon students, just as the Constitution itself is. So certain broad areas of activity are forbidden to students without specific board action--selling of narcotics, for instance, or coming to school naked. But beyond what the law forbids and what the Constitution insures, the board and its administration are faced with a broad field of problems with which they must deal by setting policy and companion rules.

It is interesting to note the continuing appearance--in legal decisions, such as Miller v. Gillis and Tinker, as well as in individual board policy statements--of such phrases as "effective operation of the school system," "orderly conduct of the educative process," and the like. The touchstone appears to be that a ruling, even one that may incidentally infringe upon a student's rights, is likely to be defensible if it can be shown to be necessary if the school is to fulfill its primary obligation to educate students and provide for their physical safety.

The New Jersey School Boards Association has recommended that the following criteria be applied to every proposed rule:

1. Is the rule necessary for the orderly and effective operation of the school system?

2. Does the rule involve some suppression of freedom?

3. If so, is the incidental restriction on...freedom any greater than is reasonably necessary for the orderly functioning of the schools?

What's "Necessary"--and To Whom?

Knowing that policies and rules will be found acceptable when they are necessary is one thing. Deciding and interpreting what is, in fact, necessary is a far more subtle, difficult matter.

In a number of "haircut," "Pledge-of-Allegiance," and similar cases in which student rights' violations were charged, the defending school administrators have often taken the position that the practices in question were "a necessary part of school discipline," and that enforcing school discipline was "a necessary part of the educative process."

Not so, the courts have ruled. School officials may not infringe upon student rights merely to assert their authority over the students.

On the other hand, searches of student lockers, even when conducted under circumstances admittedly out of line with the 14th Amendment, have been upheld by the courts, on the grounds that such inspections are necessary to the maintenance of student health, safety, and welfare.

In essence, then, the legal limits to incidences of abridgement of student rights appear to be fairly well defined; and to insure that any policy you draft conforms to such legal limits, you should solicit the opinions of legal counsel.

Getting Down To Specifics

So far, we have been discussing broad, basic areas of students' rights, particularly those enumerated by the U.S. Constitution as applicable to all citizens--freedom of speech; right to due process; right to counsel; confrontation with one's accusers; and the like.

But schools aren't faced with broad issues of constitutional law as often as they are faced with specific problems that aren't spelled out in so many words by the Constitution. What to do then?

One answer might be to set a basic policy setting forth the board's philosophy about student rights in general. (EPS file: JC--Student Rights and Responsibilities.) Such a policy should specify both the rights that the board concedes to all students at all times under all circumstances and the rights the board reserves to itself and/or to its administrators. Two examples of such "umbrella" policies--one from New York City and the other from Evanston, Ill.--will be found in the exhibit section to this report.

In formulating this expression of philosophy, the board should emphasize the importance of not being swayed by pressure groups in the community that urge repression. "Go as far as you possibly can," says Edward T. Ladd of Emroy University, "in backing up your principals, teachers, and kids in the legitimate exercise of their rights to be different. You can always quote the remark attributed to Voltaire: 'I may disapprove of what you say, but I will defend to the death your right to say it.'"

And the American Civil Liberties Union, dedicated to protecting all the civil liberties as guaranteed in the Constitution to all citizens, recommends that your general policy be based upon the following three premises:

1. A recognition that freedom implies the right to make mistakes, and that students must therefore sometimes be permitted to act in ways which are predictably unwise so long as the consequences of their acts are not dangerous to life and property, and do not seriously disrupt the academic process.

2. A recognition that students in their schools should have the right to live under the principle of "rule by law" as opposed to "rule by personality."

3. A recognition that deviation from the opinions and standards deemed desirable by the faculty is not ipso facto a danger to the educational process.

Once such a general statement of philosophy is drafted, it becomes comparatively less difficult to deal with specific issues that arise. Such specific matters can be evaluated in terms of the board's general statement, and individual policy consistent with that general statement can then be framed. (This kit includes a sampling of such "specific" policies.)

In addition to simplifying the task of writing policy about each specific issue, the setting of a general policy can also obviate the need for a host of nit-picking rules drafted to cover each and every crisis as it emerges. Problems in the area of student rights have a way of coming in and going out of fashion; resolving each new issue with a hastily-written edict is often less effective then evaluating each new issue in terms of the general, long-standing policy spelling out broad rights.

What About Responsibilities?

It is not true, as it is so often claimed, that every right carries with it a concomitant responsibility. But many rights do carry such responsibilities, and the board should see to it that student responsibilities are spelled out clearly. This is important not only to prevent the exercise of rights from degenerating into the practice

of license, but also because it is educationally valid practice to demand of students a degree of responsibility consistent with their age, maturity, and social development. If students are to learn to act responsibly, they must be given genuine responsibilities, preferably of the kind where the students themselves lose out if they fail to fulfill them.

Where appropriate, the same policy that spells out students' rights in a given area should define the responsibilities that go with the exercise of those rights. (See samples in this kit.)

It should be noted, however, that the spelling out of student responsibilities should be neither an implied punishment for the exercise of their rights nor an attempt to force students to earn rights that are already theirs ("If you want freedom of speech, prove that you have something intelligent to say!") Though there is often a relationship between a student's rights and his responsibilities, they exist independent of one another.

Setting Up Appropriate Apparatus

The school board should also establish the necessary apparatus for involving students in the determination of policy decisions that affect them. Probably no single factor contributes as much to student unrest as lack of communication with teachers and administrators; and any board seriously intent upon putting its house in order in this area has an obligation to establish such lines and forms of communication as are useful in developing and implementing policy: student ombudsmen, student members of curriculum planning committees, grievance procedures, and the like. (Our appendix includes relevant exhibits.)

And, of course, there must be clearly defined apparatus for dealing with violations of policy as well as a program for disseminating among students and staff all policies, regulations, and requirements.

In Conclusion

Sadly, the whole question of re-examining student rights and responsibilities has been muddied by emotionalism in too many cases. Boards and administrators who usually reach decisions exclusively in terms of what will best meet the needs of their students suddenly find themselves, when dealing with expanding student rights and freedoms, in an emotional climate of "us against them."

We have seen no better plea for taking a calm, reasonable approach to solving this problem than the following statement from the committee report, "Student Activism," promulgated by the New Jersey School Boards Association:

"At the risk of being called 'soft on students', the Committee believes that any study of student unrest must proceed from the viewpoint that these are our children--whether they be exasperating, rebellious, selfish, ungrateful, confused, misguided, they are nonetheless ours. They are not the enemy to be conquered and destroyed; their unrest is a symptom of our own disorder, a signal that all is not well with us as parents, as educators, as community and political leaders, and as 'reformers.'

"We need not feel guilty for being what we are nor for what we have done. We have assumed responsibility for the 'system' and have done our best in good conscience. We have succeeded and we have failed. Student perceptions of our system are not necessarily accurate, nor are their reactions necessarily constructive. But these perceptions and reactions are realities and cannot be ignored.

"Students form a special-interest group within our segmented society and react as do all special-interest groups--self-centeredly striving for a voice in their destinies and resisting external control. The thing that makes them a 'special' special-interest group is that they are not yet full-fledged citizens and have not yet been granted a right to the 'peaceful' channels of communication through which adult groups assert their demands. And they do not yet have access to the vote for political leverage.

"If we are to approach the problem of student unrest in the hope of solving a problem rather than merely for the purpose of reinforcing preconceived feelings of self-righteousness, we must start with an exercise in empathy. In its simplest terms, empathy is putting oneself in the other person's shoes (or sandals) and asking, 'What would I do now?' This is easier said than done. We all have conditioned perceptions and reflexive reactions based upon our personal experiences. It's not easy to put these aside and cast oneself in an entirely new role. Yet, unless we make a sincere effort to really understand the younger generation's point of view, we are not even going to begin to find meaningful solutions.

"Put yourself in the place of a youngster--your own, if you will-intelligent, aware, concerned, disenfranchised; looking for guidance but trying to be independent; frustrated by adult domination but not yet faced with the concerns of his own bread and butter; idealistic but not yet inculcated with the values by which we live. What would you do? You can't answer that question because you're not a student living in the most turbulent period in history. If you want to know what makes these kids tick, you're going to have to listen to them. That means giving them the chance to talk--without fear of punishment.

"We don't think they have the answers. They know we don't!"

--Lewy Olfson

NOTE

° The school board policies and policy reference documents which follow represent a selection from the growing files of the EPS/NSBA Clearinghouse and are supplementary to exhibits which appear in the master Educational Policies Reference Manual. Members of the Educational Policies Service should file this kit for permanent reference in the master manual.

° Lewy Olfson of Old Lyme, Conn., author of the introductory essay, is a freelance education writer.

EPS/NSBA File: JC

STUDENT RIGHTS AND RESPONSIBILITIES
(Freedom of Expression)

Freedom of speech is a constitutional right guaranteed to all citizens. The school must make every effort to provide for the free expression of ideas, unless this interferes with the educational process. All students have the right to hear different points of view consistent with their maturity level.

Students must be free to express their point of view as long as they do not attempt to coerce others to accept this view.

Students shall have the freedom to wear buttons, arm bands, and similar insignias to express a point of view unless there is a clear and direct interference with the school program. Such buttons, arm bands, etc., may not mock or ridicule other individuals or groups.

A student has the right to legal protest thru proper channels, providing that such protest does not directly interfere with the educational process or result in harm to other persons or property. This shall be used only after all channels have been exhausted....

A student has the right to pass out political leaflets or any other form of legal literature, with his parents knowledge and with the administration's approval.

Students shall have the responsibility to develop tolerance for the viewpoints and opinions of others and to recognize the right of other individuals to form different points of view.

SOURCE: Greendale (Wisc.) Public Schools
DATE: 5/70

SCHOOL BOARD POLICY SAMPLES (buff sheets) are distributed for demonstration purposes. Contents are not necessarily endorsed by EPS/NSBA. Editing from originals has been for reasons of space and style requirements only.

ABOUT THE NEW YORK CITY STUDENTS BILL OF RIGHTS

NOTE: The policy statement which follows is the final draft of New York City's much-publicized and so-called "Bill of Rights" for senior high school students which was hammered out on the forge of controversy during school year 1969-70. Below is the text of the cover letter which makes it clear that the policy does not "diminish the legal authority" of the Board.

BOARD OF EDUCATION
of the City of New York

June 30, 1970

TO: ALL SUPERINTENDENTS, PRINCIPALS, AND
CHAIRMEN, LOCAL SCHOOL BOARDS

For the past year the Board of Education and the Superintendent of Schools have been engaged in an effort to codify rights and responsibilities of high school students in this period of social change. Students, parents, professional staff, and the city-wide community have been involved in an extended dialogue on this subject. After many reviews and revisions I am issuing this statement of rights and responsibilities of senior high school students.

I am directing that it be implemented as quickly as possible for the commencement of the new school year. It should be disseminated to students, parents, professional staff, the school Consultative Council, and the community of the school. Principals should develop plans for discussion of its provisions and for the initiation of procedures to make it fully operative.

This Circular is for the purpose of stating systematically some of the rights and responsibilities of senior high school students. In no way does it diminish the legal authority of the school officials and of the Board of Education to deal with disruptive students. This recognizes the student's responsibility. It is meant to foster greater understanding so that students, teachers, and administrators can participate more effectively in an active educational partnership.

Sincerely,

IRVING ANKER
Superintendent of Schools
(Acting)

EPS/NSBA File: JC

STUDENT RIGHTS AND RESPONSIBILITIES

1. In each high school there should be established an elective and representative student government with offices open to all students. The student government will establish reasonable standards for candidates for office. All students should be allowed to vote in annual elections designed to promote careful consideration of the issues and candidates.

   a. The student government shall have the power to allocate student activity funds, subject to established audit controls and the By-Laws of the Board of Education. Extracurricular activities shall be conducted under guidelines established by the student government. The student government shall be involved in the process of developing curriculum and of establishing disciplinary policies.

   b. Representatives selected by the student government shall meet at least monthly with the principal to exchange views, to share in the formulation of school student policies and to discuss school-student relations and any other matters of student concern.

2. A parent-study faculty consulative council, as established by previous Board of Education resolutions, shall meet at least monthly to discuss any matter relating to the high school. The Consultative Council shall organize a sub-committee to consider matters of school-wide concern submitted by individual students. The sub-committee shall place such problems on the agenda of the consultative council when appropriate. The consultative council shall establish a continuing relationship with the principal to secure information regarding the administration of the school, to make recommendations for the improvement of all school services and to promote implementation of agreed upon innovations. Its structure and operating procedures shall be placed on file with the chancellor.

3. Official school publications shall reflect the policy and judgment of the student editors. This entails the obligation to be governed by the standards of responsible journalism, such as avoidance of libel, obscenity, and defamation. Student publications shall provide as much opportunity as possible for the sincere expression of all shades of student opinion.

4. Students may exercise their constitutionally protected rights of free speech and assembly so long as they do not interfere with the operations of the regular school program.

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a. Students have a right to wear political buttons, arm bands, and other badges of symbolic expression, as long as these do not violate the limits set in 4c below.

b. Students may distribute political leaflets, newspapers, and other literature at locations adjacent to the school.

c. Students shall be allowed to distribute literature on school property at specified locations and times designated. The principal and the student government shall establish guidelines governing the time and place of distribution at a site that will not interfere with normal school activities. They will also provide for sanctions against those who do not adhere to prescribed procedures. No commercial or obscene material, nothing of libelous nature or involving the defamation of character nor anything advocating racial or religious prejudice will be permitted to be distributed within the school. In noting these exceptions it is clearly the intention of the Board of Education to promote the dissemination of diverse viewpoints and to foster discussion of all political and social issues.

d. Students may form political and social organizations, including those that champion unpopular causes. These organizations, however, must be open to all students and must abide by Board of Education policies as developed in guidelines established by the student government acting in concert with the principal. These organizations shall have reasonable access to school facilities.

5. Faculty advisors shall be appointed by the principal after consultation with the student group.

6. Students have the right to determine their own dress, except where such dress is clearly dangerous, or is so distractive as to clearly interfere with the learning and teaching process. This right may not be restricted even by a dress code arrived at by a majority vote of students as Dr. Ewald Nyquist, New York State Commissioner of Education held last year in Decision No. 8022 and 8023.

7. Students shall receive annually upon the opening of school a publication setting forth rules and regulations to which students are subject. This publication shall also include a statement of the rights and responsibilities of students. It shall be distributed to parents as well.

8. A hearing must be held within five school days of any suspension as prescribed by law and the circulars of the Chancellor (Superintendent of Schools).

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9. The extent and definition of student rights and responsibilities are subject to discussion by the consultative councils. Appeals from the decisions of the head of the school, relating to rights and responsibilities herein enumerated, must first be lodged with the assistant superintendent in charge of the high schools, then the Chancellor and finally the Central Board of Education. All such appeals shall be decided as quickly as possible.

10. Rights also entail responsibilities. One of the major goals of this document is to establish a new trust, one based on the humane values of self-respect and respect for others. No student has the right to interfere with the education of his fellow students. It is thus the responsibility of each student to respect the rights of all who are involved in the educational process.

SOURCE: Board of Education of the City of New York
DATE: 7/30/70
REF.: Special Circular No. 104, 1969-1970

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ABOUT EVANSTON'S POLICY ON STUDENT EXPRESSION

NOTE: Oral and written expressions of unpopular and even "offensive" views by students are--within clearly defined limits --"protected activities" under a pioneering free speech policy first adopted during the 1968-69 school year by the Board of Education of Evanston Township High School District 202 in Illinois. The version which follows incorporates the latest revisions as they appear in the ETHS student handbook issued in September, 1970. The Board's preamble to the policy appears in the box below and should be regarded as an integral part of the body of the policy reprinted on the buff sheets which follow.

Preamble

The Board of Education of Evanston Township High School, District No. 202, desires to promote an orderly educational community which reflects traditional democratic values and constitutional principles, including freedom of expression by students.

The Board recognizes that the achievement of a proper balance between order and freedom is among the more perplexing issues confronting secondary education today.

The Board considers it essential to define an appropriate balance in these matters for the guidance of the administration, faculty, parents, and students. Accordingly, as regards the expression of ideas and opinions by students on school premises, the Board hereby prescribes the following policy:

SOURCE: Board of Education, Evanston Township High School, District 202, Illinois (preamble above and the two-column pages which follow).
DATE: September, 1970, revision

Section 1.
STUDENT RIGHTS

Subject to the procedures and General Limitations herein provided, students who legally attend Evanston Township High School may express opinions and ideas, take stands and support causes, publicly and privately, orally or in writing. Such actions shall be referred to herein as "protected activities." There may be no interference with these protected activities based on the belief that any particular idea, opinion, or position is unpopular or is contrary or offensive to community opinion or taste.

Section 2.
EXERCISE OF PROTECTED ACTIVITIES ON BULLETIN BOARDS

At least one bulletin board shall be provided in each school for the use of approved student organizations, informal student groups, and individual students. Other bulletin boards may be designated for official school announcements only. Any bulletin board so designated shall be for restricted use, and materials placed thereon by students may be removed by the school.

All materials posted by students on bulletin boards must conform to the General Limitations herein provided. Bulletin boards designated for students may be used for school activities, out-of-school activities, or matters of general interest to students.

Any posted material deemed to violate the General Limitations herein provided may immediately be removed by the school administration. At the request of interested students or of the sponsoring student organization, the school official responsible for removing the materials will explain the nature of the violation.

All student-posted notices or communications shall be subject to reasonable size limitations and shall be dated and may be removed by the school after seven days to assure full access to bulletin boards for all students.

Section 3.
EXERCISE OF PROTECTED ACTIVITIES THROUGH DISTRIBUTION OF PRINTED MATERIALS AND CIRCULATION PETITIONS

Subject to the procedures and General Limitations herein provided, students may exercise their protected activities through (i) the distribution of handbills, leaflets, and other written materials and (ii) the collection of signatures on petitions concerning either school or non-school matters or issues.

(A) The time for the conduct of any activities under this Section 3 may be restricted by the school administration to certain designated times, such as periods before school begins, after dismissal, or during lunch periods, to the extent that such restrictions are deemed necessary to prevent interference with the school program.

(B) The places for the conduct of such activities may be reasonably restricted by the school administration to permit the normal flow of traffic within the school and at exterior doors.

(C) The manner of conducting such activities may be reasonably restricted by the school administration to prevent undue levels of noise or to prevent the use of coercion or unreasonable interference with students. Littering shall not be sufficient grounds for preventing the distribution of materials.

School officials shall not interfere with the distribution of printed material or circulation of petitions because of their content unless there is contained therein matter which violates one or more of the General Limitations. Where any such decision is rendered the school official shall specify the manner in which it is deemed that this policy has been violated by any distribution or circulation.

Section 4.
EXERCISE OF PROTECTED ACTIVITIES THROUGH SIGNS AND SYMBOLS

Subject to the General Limitations herein provided, students may carry or wear placards, buttons, badges, or armbands on school premises.

Section 5.
GENERAL LIMITATIONS

As an aid to their interpretation and application, it is hereby stated to be the purpose of this policy and the following General Limitations to protect the freedom of student expression to the fullest extent consistent with (i) the maintenance of an orderly and efficient educational process and (ii) the rights of all members of the school community, including the right to the maintenance of a school environment suitable for the healthy growth and development of all students.

(A) No activity which materially or substantially interferes with appropriate student discipline on school premises shall be deemed protected activity.

(B) No activity which materially disrupts classwork or provokes any substantial disorder shall be deemed protected activity.

(C) No activity which invades the lawful rights of other persons shall be deemed protected activity.

(D) No activity shall be deemed protected activity which involves the use or expression of (i) obscenities, or (ii) any sexual or prurient themes where, given the particular context, content, and manner of communication, such use or expression may reasonably be expected to be (substantially) harmful to the normal development of younger, impressionable, and less mature students in the school.

(E) No activity involving the use of false statements or innuendoes which may subject any person to hatred, ridicule, or contempt, or which may injure the reputation of any person, shall be deemed protected activity.

(F) No activity unfairly abusive of, or unfairly injurious to, any school personnel shall be deemed protected activity. Nothing herein, however, shall be deemed to prohibit legitimate criticism for the purpose of redressing grievances actually thought to exist.

(G) No activity involving statements grossly or unfairly prejudicial to any racial, religious, or ethnic group, or any members thereof for the reason of such membership, shall be deemed protected activity.

(H) No activity involving the use of printed materials to advocate that any religious denomination, sect, or point of view is preferable to any other religious denomination, sect, or point of view shall be deemed protected activity.

(I) No activity involving the advocacy, or encouragement through false information, of the use of any substance or materials which may reasonably be believed to constitute a direct and substantial danger to the health of students, or providing any information as to the availability of such substances or materials, shall be a protected activity.

(J) No activity involving advocacy of the violation of existing statutes, ordinances, or other established laws or official school policy, rules, or regulations shall be deemed protected activity.

(K) No activity involving the distribution of written material which has a significant purpose of advertising commercial products or services for sale by profitmaking organizations shall be deemed a protected activity.

(L) No materials may be circulated or distributed in exchange for any payment, whether as a price or voluntary contribution, for such materials. Nor shall any student receive payment for services in the distribution or circulation of any material. No circulation or distribution in violation of this paragraph shall be deemed protected activity.

(M) No printed material published in connection with a protected activity shall be prepared by use of school equipment or property without specific approval by appropriate school personnel.

(N) All copies of any written materials, whether posted on bulletin boards or circulated and distributed on school premises, shall bear the names of approved student organizations or of other sponsoring student groups or students. In the case of a student group, the names of at least two students principally involved in the posting, circulation, or distribution shall be included.

Section 6.
VIOLATION OF POLICY

Any violation by any student of the procedures or General Limitations herein, or any administrative rules, decisions, or action adopted or taken in pursuance of this policy, may subject the student to discipline, including suspension or expulsion in accordance with such procedures as may be provided by law and rules and regulations adopted by, or pursuant to, the authority of this Board of Education; provided, that except in cases involving gross or willful violations, the first violation of this policy by any student shall be followed by a written warning to cease and desist such alleged violation, which warning

shall explain in what way the action violates this policy. A copy of any such warning shall be immediately transmitted to such student's parents. Any further violation of this policy by such student may be deemed gross disobedience subject to the discipline procedures hereinabove provided.

In addition to the discipline provided in the preceding paragraph, any students participating in any activity, whether individually or in concert, constituting a gross or willful violation of this policy shall be denied the privilege of distributing printed materials or circulating petitions on school premises without the prior submission of such materials or petitions to the appropriate principal, or his designate, for review and determination of compliance with this policy. Subject to the right of appeal provided herein, no such materials or petitions so submitted shall be distributed or circulated where a violation of the General Limitations is found to exist.

Any student advised of the withdrawal of said privilege who thereafter distributes materials or circulates petitions without complying with the procedures of the preceding paragraph shall be subject to appropriate discipline.

In the case of any withdrawal of said privilege following the first gross or willful violation of the policy by any student, the privilege shall be withdrawn for a period of time not to exceed one full semester following the semester in which the violation occurs, provided, however, that the privilege shall not be restored unless and until the student submits to his principal a written statement indicating that the student has read the policy and will endeavor to comply with its requirements.

Section 7. APPEAL PROCEDURES

If any activity is determined by any school administrator to violate this policy in whatever degree, the approved student organization, student groups, or students who have undertaken, or propose to undertake, such activity may, within one week from being advised of such determination, appeal to the superintendent, who shall render his decision as promptly as possible in the circumstances. If the superintendent deems such procedure appropriate, he may attempt to reconcile any differences of opinion as to the requirements of this policy.

The decision of the superintendent shall be final, except as to any case which he may deem appropriate for reference to the Board of Education.

Section 8. MISCELLANEOUS

(A) The provisions of this policy shall be applied on a non-discriminatory basis and in a manner designed to assure maximum freedom of expression for students in a manner consistent with this policy. No requirement of prior approval shall be imposed on the distribution, circulation, and posting of written materials, except as provided herein and except in such specific circumstances and to such extent as the superintendent may deem necessary on the basis of any clear and present danger to orderly and efficient school operations.

(B) Whenever in the interpretation of this policy it is necessary to determine the meaning of certain words, the superintendent shall make such determination, giving due regard to laws of the United States and the State of Illinois and applicable Court decisions.

(C) Any petitions filed by students with any appropriate school personnel shall be reviewed by a principal or assistant principal, who shall endeavor to adjust any differences of opinion. If substantial differences of opinion are unresolved after 5 days from the date of filing of said petition, the petition shall be forwarded to the superintendent. If the differences remain unresolved for 25 days thereafter, the superintendent shall forward the petition and a report thereon to the Board of Education for further decision.

(D) Whenever in this policy a decision or action, other than the formulation of a general rule, is required by the superintendent, he may delegate his authority to render such decision or take such action, subject to his review, to one or more members of the administrative staff.

Section 9. PURPOSE OF POLICY AND RESPONSIBILITY OF SCHOOL

It is the purpose of this policy to balance the rights of student expression with the rights of all members of the school community, with the interests of an orderly and efficient educational process, and with the needs of a school environment suitable for the healthy growth and development of all students. It is not the purpose of this policy to regulate student expression in behalf of any other interests. The school assumes no responsibility for the contents of any written matter posted, circulated, or distributed, or for student activities in connection with this policy, insofar as such matter or activities may relate to any interests other than those stated herein.

EPS/NSBA File: JCAA

DUE PROCESS

Policy

Due process procedure will be followed in the exercise of disciplinary authority.

Interpolation

The constitutional rights of students assure protection of due process.

Procedures

1. Disciplinary authority must be exercised with fairness.

2. A student must be given an opportunity for a hearing if he indicates he desires to have one. The hearing would be held to allow the student to contest the facts upon which the disciplinary authority is acting and that hearing should be governed by the following guidelines:

   a. The Hearing Officer, generally the building administrator, should ascertain the facts and if the facts indicate the student's guilt, the Hearing Officer should review the designated punishment to determine its fairness.

   b. The parents should be present at the hearing.

   c. A record should be kept of the hearing.

   d. The student and his parents should be made aware of their right to appeal the decision of the Hearing Officer to either the superintendent or the school board.

   e. The findings of the Hearing Officer should be reduced to writing and sent to the student and his parents.

SOURCE: Shoreline Schools, Seattle, Wash.
DATE: 12/3/69

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EPS/NSBA File: JCAB

INTERROGATIONS AND SEARCHES
(Student Lockers)

The right of inspection of students' school lockers is inherent in the authority granted school boards and administrators and should be exercised so as to assure parents that the school, in exercising its "in loco parentis" relationship with their children will exercise every safeguard to protect the well-being of those children.

Nevertheless, exercise of that authority by school officials places unusual demands upon their judgment so as

1. to protect each child's constitutional rights to personal privacy and protection from coercion;

2. to emphasize that schools are educational rather than penal institutions;

3. to act in the best interest of students and the welfare of the total school district.

SOURCE: East Syracuse-Minoa Central School District, East Syracuse, N.Y.
DATE: 4/28/70

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EPS/NSBA File: JCB

STUDENT INVOLVEMENT IN POLICIES AND RULES DEVELOPMENT (Curriculum)

One of the critical and defensible demands of students in the present period of youth restiveness calls for a role in making curriculum decisions. Black and white students challenge the relevance of course content and methods of teaching. Students are demanding black studies programs. Students demand voice and vote in curriculum decisions.

We recommend that...educators support the principle of students having roles in both shaping and voting upon curricular decisions which affect their education, while recognizing that application of the principle is a complex matter which may differ from situation to situation and which involves establishing relationships between participation and responsibility.

SOURCE: Abridged from a resolution adopted by the Association for Supervision and Curriculum Development
DATE: March, 1970

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EPS/NSBA File: JCD

STUDENT CONDUCT

All student behavior at Greendale High School is based on respect and consideration for the rights of others.

Students shall have the right to receive annually at the opening of school, a publication listing the rules and regulations to which they are subject. These rules shall be developed cooperatively by the faculty and students, approved by the administration, and filed with the Board of Education. Any restrictions on student behavior must be concerned with speech or action which disrupts the work of the school or interferes with the rights of other students....

Students have a responsibility to know and respect the rules and regulations of the school. Students have the further responsibility to behave in a manner appropriate to good citizenship everywhere.

SOURCE: Greendale (Wisc.) Public Schools
DATE: 5/70

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EPS/NSBA File: JCD

STUDENT CONDUCT

Students in our schools are expected to act in such fashion that their behavior shall reflect favorably on the individual student and on the school, show consideration for fellow students, and create a harmonious school atmosphere. To accomplish this, all students must recognize their individual responsibilities and obligations and discharge them in accordance with the school regulations.

All students shall conduct themselves as ladies and gentlemen. This refers to their actions toward each other, to their language, to their dress, and to their manners.

Attention is called to behavior on school buses, at lockers, in the lavatories, in the gymnasium, in the corridors, in the cafeteria, in the area outside the school, in the library, in school offices, and, of course, in the classrooms.

In each instance in which an employee acts to help a student conduct himself properly, emphasis shall be placed upon the growth of the student in ability to discipline himself.

SOURCE: Board of Education of Baltimore County, Towson, Md.
DATE: 11/21/68
LEGAL REF.: Ann. Code of Pub. Gen. Laws of Md. Art. 77-Pub. Ed.
#96. Disturbing schools in session
#131.. Suspension and expulsion

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EPS/NSBA File: JCDB

DRESS CODE

The responsibility for the appearance of the students of Greendale High School rests with the parents and the students themselves.

They have the right to determine such student's dress providing that such attire is not destructive to school property, complies with the health code of the State of Wisconsin, and does not interfere with the educational process.

This right may not be restricted, even by a dress code arrived at by a majority vote of students.

SOURCE: Greendale (Wisc.) Public Schools
DATE: 5/70

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EPS/NSBA File: JCDB

DRESS CODE

STUDENTS' APPEARANCE SHOULD BE NEAT AND CLEAN. DRESS AND APPEARANCE WHICH CAUSE DISRUPTION OF THE EDUCATIONAL PROCESS OR PRESENT HEALTH OR SAFETY PROBLEMS SHALL NOT BE PERMITTED; OTHERWISE, DRESS AND APPEARANCE ARE THE RESPONSIBILITY OF PARENTS.

Interpolation

Recent decisions of the courts have limited the ability of school districts to legislate in the area of dress and appearance. The schools no longer stand in the shoes of the parents with regard to these items and are able only to adopt rules and regulations in this area which are reasonably related to the primary function of the school district, the education, health, and safety of the students.

Procedures

1. When a building administrator thinks that a student is in violation of this rule and the student refuses to correct the alleged violation, the building administrator will request the student and the parents to meet with him to discuss the specific problem he sees. Every effort will be made to have the parent deal with the identified problem.

2. If the parent is unwilling or unable to restrain or correct the problem, and the problem is deemed by the administrator to amount to disruption or to endanger the health or safety of the student concerned or others, the administrator then may suspend the student pending correction of the problem.

3. So that the recommendations for dress and physical appearance will be consistent among the different levels, (elementary, junior high, and senior high) a joint student-parent-faculty committee will be constituted at each level to define recommended standards of dress.

SOURCE: Shoreline Public Schools, Seattle, Wash.
DATE: 2/2/70

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EPS/NSBA File: JCEC

STUDENT DEMONSTRATIONS AND STRIKES

The Board of Education of East Syracuse-Minoa recognizes that it is the local entity responsible for elementary and secondary education--that educational leadership rests with the Board, its administrators, the school principals, and teachers.

We recognize the right of students to dissent--peacefully--so long as the day-to-day educational process is not disrupted or hampered.

When such dissent includes violation of the rights of other students to an education, when such dissent involves force, threat of force, or actual law violation, those responsible will be summarily suspended from school, ordered from the campus, and, if necessary, law enforcement agencies called in to enforce the order.

Thereafter, the case of the suspended student will be handled on an individual basis in line with the policy of the School Board.

It will be the duty of the teacher or administrator in charge to see that order is maintained and that the right of the majority to pursue their education is not abridged by those who would disrupt that aim.

SOURCE: East Syracuse-Minoa Central School District, East Syracuse, N.Y.
DATE: 3/24/70

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EPS/NSBA File: JDD, JDE

SUSPENSION AND EXPULSION
(Due Process Procedures Recommended)

Any policy on expulsion and/or suspension should meet at least minimum requirements:

1. In every expulsion case and in any suspension case involving more than 20 school days, written charges specifying the act or acts of the student upon which expulsion or suspension is based should be served upon the student and upon his parents or guardian.

2. Said charges should specify the time, date, and place a hearing will be held on the question of such suspension or expulsion. It should also contain the names of the persons who furnished the information upon which the suspension or expulsion is based. The hearing must also be timely held.

3. At the hearing the student should be permitted to have an attorney represent him if he so desires.

4. The student and his attorney should have the opportunity to question or cross examine the witnesses mentioned in [2] above.

To be sure that due process is afforded the student, the following additional procedures are recommended:

1. The student should be permitted to call other persons to testify at such a hearing.

2. The entire hearing, in the case of every expulsion and every long suspension, should be recorded by a certified shorthand reporter at the expense of the school district.

Any policy should provide that any of the foregoing may be waived by the student with the consent of his parents, guardian, or attorney.

SOURCE: School Law Newsletter, Kansas Association of School Boards.
DATE: 1969

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EPS/NSBA File: JHCB

STUDENT GOVERNMENT

Students have the right to an elected and representative student government. Student government representatives shall share in the formation of general school policies, discuss matters of faculty/student relations, and other matters of student concern.

Some method of establishing faculty, student, parent interaction and feedback to consider matters of mutual concern should be developed. This group may make recommendations for the general operation of the school and policy matters for the school district.

Students have the responsibility to participate actively in the student government process, to make sure that all students are allowed to vote and that offices are open to all who qualify. Students may be invited to school meetings by the administrator conducting the meeting.

SOURCE: Greendale (Wisc.) Public Schools
DATE: 5/70

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EPS/NSBA File: JHCB

STUDENT GOVERNMENT
(Appeals of Student Government Organizations)

1. The student government organization in each secondary building can present written recommendations to the Building Principal regarding matters of student concern or interest under building procedures established. The Principal shall then arrange for a hearing and render a written decision within five school days after presentation, for the first two recommendations, and within 10 additional school days for any remaining recommendations; the order of priority to be in the numerical order assigned by the student government organization.

2. Following review and decision by the Principal, the student government organization reserves the right, within 10 school days, to appeal in writing, the decision of the Principal to the Superintendent of Schools. This appeal may be made if the original request was denied or if the Principal feels the original request had district implications and must be resolved beyond the building level.

3. The Superintendent will hold a hearing with representatives designated by the student government organization and render a written decision within 10 school days of receipt of a written appeal.

4. The student government organization reserves the right within 10 school days, to appeal, in writing, the decision of the Superintendent to the Board of Education. This appeal may be made if the Superintendent does not approve the request or if the Superintendent indicates that the matter involves district policy which can only be approved by the Board.

5. Appeals to the Board will be submitted in writing to the Superintendent's office for distribution to the Board, and notification will be sent by the Superintendent to all interested parties indicating that said appeal might result in a change of policy. Written decision will then be made by the Board within 30 school days, during which time all groups notified will have an opportunity to react.

SOURCE: Plainview-Old Bethpage, N.Y., School District
DATE: 9/15/69

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EPS/NSBA File: JHCC

STUDENT PUBLICATIONS

We encourage the use of school sponsored publications to express students' points of view. They shall be free from all policy restrictions outside the normal rules for responsible journalism (the avoidance of libel, obscenity, defamation, false statements, or material advocating racial or religious prejudice). Student publications shall provide as much opportunity as possible for the sincere expression of student opinion.

SOURCE: Greendale (Wisc.) Public Schools
DATE: 5/70

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For further reading...

° Student Activism and Involvement in the Educational Program. Written particularly for school board members, this award-winning publication offers an enlightened, forward-looking approach to the phenomenon of student unrest. Offers a series of practical recommendations plus an appendix of helpful exhibits including a model for local community study, grievance procedure for students and parents, teacher evaluation form for students, and sample policies. Highly recommended. New Jersey School Boards Association, 407 West State St., Trenton, N.J. 08605. January, 1970. 60 pp. Price: $2.00.

° Academic Freedom in the Secondary Schools. Chapter on "Students Rights" presents ACLU's position on a variety of issues including student publications, forums, restrictions on political thought, freedom of assembly and the right to petition, due process rights, etc. A basic reference. American Civil Liberties Union, 156 Fifth Avenue, New York City 10010. 1968. 22 pp. Price: 25¢; quantity prices on request.

° The Reasonable Exercise of Authority. Legal guidelines on student personal appearance, freedom of expression, behavior codes, student property, extra-curricular activities, discipline, student government, student press, right of petition, and drugs. National Association of Secondary School Principals, 1201 Sixteenth St., NW, Washington, D.C. 20036. 1970. Price: $1.00.

° Student Unrest: Threat or Promise. A book of readings by public school instructional leaders. Association for Supervision and Curriculum Development, 1201 Sixteenth St., NW, Washington, D.C. 20036. 1970. 124 pp. Price: $2.75.

° Selected Bibliography on Student Activism in the Public Schools. A listing of about 70 reports and journal articles. ERIC Clearinghouse on Educational Administration, University of Oregon, Eugene, Ore. 97403. April, 1969. Single copy free.